

1  
2  
3  
4  
5  
6  
7  
8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  PETER J. McDANIELS,

12                  v.  
13                  Plaintiff,

14                  BELINDA STEWART, et al.,

15                  Defendants.

16                  CASE NO. 3:15-cv-05943-BHS-DWC

17                  ORDER LIFTING STAY AND  
18                  DENYING OUTSTANDING  
19                  NONDISPOSITIVE MOTIONS

20                  The District Court has referred this action to United States Magistrate Judge David W.  
21 Christel. On July 6, 2017, the Court stayed this case pending Plaintiff Peter J. McDaniels's  
22 interlocutory appeal to the Ninth Circuit. Dkt. 219. The Court struck the noting dates for  
23 Plaintiff's Motion to Direct Service (Dkt. 190), Motion for Substitution (Dkt. 191), Motion to  
24 Dismiss Party (Dkt. 207), Motion for Leave to File Excess Pages (Dkt. 208), and Motion to Issue  
Subpoena (Dkt. 209). The Court also struck the noting date for Defendants' Second Motion for  
Summary Judgment (Dkt. 203).

25                  In March of 2018, the Ninth Circuit issued its order as to Plaintiff's Appeal. Dkt. 221.  
26 Plaintiff then filed a Motion to Lift Order Staying the Case ("Motion to Lift Stay") (Dkt. 222)

27                  ORDER LIFTING STAY AND DENYING  
28                  OUTSTANDING NONDISPOSITIVE MOTIONS -

1 and a Motion to Stay All Future Dispositive Motions (“Motion to Stay Dispositives”) (Dkt. 223),  
2 in which he requests the Court bar additional dispositive motions, instead relying on the  
3 dispositive motions currently filed. He states responding to additional dispositive motions would  
4 be so burdensome as to prejudice his ability to pursue his case. *Id.* Defendants replied, stating  
5 they do not oppose a lift of the stay, but they do oppose the additional restraints on the filing of  
6 dispositive motions. Dkt. 226. They argue that, because of the length of time the case has been  
7 stayed, it would save judicial resources if they were allowed to file a wholly new Motion for  
8 Summary judgment, rather than the supplement to their previous motion Plaintiff requests. *Id.*  
9 Defendants subsequently filed a new Motion for Summary Judgment. Dkt. 231.<sup>1</sup>

10 Because the Ninth Circuit has now made a determination on Plaintiff’s appeal, a lifting of  
11 the stay on this case is appropriate. Therefore, Plaintiff’s Motion to Lift Stay (Dkt. 222) is  
12 granted.

13 However, the Court agrees with Defendants. Though Plaintiff may have additional work,  
14 this case was stayed for almost a year. The Court is unsure whether the procedural posture of the  
15 case has changed such that the original dispositive motions are no longer applicable. Therefore,  
16 in the interest of judicial economy, it is more appropriate to allow both parties to file new  
17 motions, rather than supplements. Therefore, Plaintiff’s Motion to Stay Dispositives (Dkt. 223) is  
18 denied.

19 In addition, the Court notes that, because the stay has been lifted, Plaintiff’s Motion to  
20 Direct Service (Dkt. 190), Motion for Substitution (Dkt. 191), Motion to Dismiss Party (Dkt.  
21 207), Motion for Leave to File Excess Pages (Dkt. 208), Motion to Issue Subpoena (Dkt. 209)

22 \_\_\_\_\_  
23 <sup>1</sup> Plaintiff has also filed a Motion for Extension of Time to Respond (Dkt. 235) and a Motion for Extension  
24 of Time on the Scheduling Order (Dkt. 236). These motions have not yet come ready for consideration, and so the  
Court will make determinations on those motions in later Orders.

1 and Defendants' Second Motion for Summary Judgment (Dkt. 203) must be addressed. As noted  
2 above, the case was stayed for almost a year and the Court is unsure whether the current  
3 procedural posture of the case warrants examining the above pending motions on their merits.  
4 Therefore, the Court denies Plaintiff's Motion to Direct Service (Dkt. 190), Motion for  
5 Substitution (Dkt. 191), Motion for Leave to File Excess Pages (Dkt. 208), and Motion to Issue  
6 Subpoena (Dkt. 209) with leave to refile. Because Plaintiff's Motion to Dismiss Party (Dkt. 207)  
7 and Defendants' Second Motion for Summary Judgment (Dkt. 203) are dispositive motions, the  
8 Court will file a Report and Recommendation recommending the District Court dismiss them as  
9 moot. The Parties may resubmit any motions they believe are still relevant based on the current  
10 posture of the case.

11 Dated this 15th day of May, 2018.

12   
13

14 David W. Christel  
United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24